

ORDINANCE NO. 987

AN ORDINANCE OF THE CITY OF WILLISTON AMENDING SECTIONS 12-71 AND 12-72 OF THE WILLISTON CODE OF ORDINANCES REGARDING THE SALE OF TOBACCO TO MINORS AS SET OUT BELOW.

WHEREAS, the City of Williston has previously enacted an ordinance to prevent the sale of tobacco products to minors, and

WHEREAS, the use of electronic cigarettes is increasing, especially among minors, and

WHEREAS, the current City of Williston ordinance addressing sale of tobacco products to minors does not currently address the sale of electronic cigarettes, and

WHEREAS, it is the intent of the City to protect and promote the public health, safety, and welfare by regulating the sale of tobacco and prohibiting the sale of tobacco products to minors by amending the City of Williston's Code of Ordinances to address the use and sale of e-cigarettes.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF CITY COMMISSIONERS OF THE CITY OF WILLISTON, NORTH DAKOTA:

Section 1. That Section 12-71. Sale of tobacco products to minors prohibited be amended, and as amended be enacted as follows:

Sec. 12-71. Sale of tobacco products to minors prohibited.

It shall be unlawful for any person to sell to, furnish to, distribute to, or procure for a minor, cigarettes, cigarette papers, cigars, e-cigarettes, snuff, or a tobacco product in any form in which they may be utilized for smoking or chewing. As used in this section, "sell" includes dispensing from a vending machine under the control of the actor. The person selling is guilty of the offense but the offense shall also be considered an offense for purposes of Section 9-117, Suspension of authority to sell tobacco products. A minor clerk employed by a licensed retailer may sell tobacco products on the retailer's premises.

This ordinance shall be in full force and effect upon its final passage, approval, and publication.

Section 2. That Section 12-72 be amended, and as amended be enacted as follows:

Sec. 12-72. Purchase, possession, or use of tobacco products by minors prohibited.

(1) Definitions. These definitions shall apply to Sections 12-70, 12-71, and 12-72 of this Chapter:

- a. "Cigar" means any roll of tobacco wrapped in tobacco.
- b. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and encased in any material except tobacco.
- c. "E-cigarette, electronic cigarette or electronic smoking devices" means any electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, and e-pipe or under any other product, name, or descriptor and also includes any cartridge or other component of the device.
- d. "Minor" means any person who has not reached the age of eighteen (18) years.
- e. "Person" means any association, individual, firm, fiduciary, partnership, corporation, limited liability company, or other legal entity.
- f. "Sale" or "sell" applies to gifts, exchanges and barter
- g. "Tobacco product" means any product that is made from or derived from tobacco, which contains nicotine or a similar substance, and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, snus, or an electronic smoking device. Tobacco product also includes pipes and rolling papers, but does not include any product specifically approved by the U.S. Food and Drug Administration for legal sale as a tobacco cessation

product and is being marketed and sold solely for that approved purpose.

h. "Vending machine" means any kind of device or mechanical machine which, upon the insertion of a coin or coins, tokens or other objects, will release tobacco products in packages or otherwise.

(2) No person under the age of eighteen (18) may possess, purchase, smoke, or use cigarettes, cigars, cigarette papers, e-cigarettes, snuff or tobacco products in any other form in which it may be utilized for smoking or chewing.

(3) Any person fourteen to seventeen (14-17) years of age found to have violated this section must be assessed a fee of twenty-five dollars (\$25.00).

(4) Violation of this section is a noncriminal offense.

This ordinance shall be in full force and effect upon its final passage, approval, and publication.

Commissioner Cymbaluk moved the adoption of the foregoing Ordinance. The Motion was seconded by Commissioner Bekkedahl. On roll call vote of the Commissioners vote "AYE": Brostuen, Bekkedahl, Klug, Cymbaluk and Koeser, and the following Commissioners vote "NAY": None. Absent and not voting: None.

WHEREUPON, the Motion was passed and the Ordinance declared adopted this 25th day of February, 2014.

E. Ward Koeser, President
Board of City Commissioners

ATTEST:

John Kautzman, City Auditor

First Reading: February 11, 2014

Second Reading: February 25, 2014

Published:

Adopted the 25th day of February, 2014.